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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,853	07/18/2000	Thomas Lenz	76138/111	8635

7590 02/25/2003
Proskauer Rose LLP
Patent Department
1585 Broadway
New York, NY 10036

EXAMINER

TO, TUAN C

ART UNIT PAPER NUMBER

3663

DATE MAILED: 02/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/861,853

Applicant(s)

NEEDHAM, FREDERICK
JOHNSTON

Examiner

Tuan C To

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-9 are rejected under 35 U.S.C. 102(a) as being unpatentable by Schramm et al. (US 5884719).

Claims 1, 3, 4, and 6-9: Schramm et al disclose an apparatus and a method for controlling drive slip. Schramm et al describe where the vehicle requires the traction (see column 1, lines 60-67, and column 2, lines 1-35). In a condition that the driver travels in a rough terrain or on mountain road with coefficient of friction, the driver push hard the accelerator pedal in order to decrease the slip value. In a condition that the surface of road with low coefficient of friction when the road surface covered by deep snow or icy, the driver pushes less the accelerator pedal, thus, the desired slip value increases.

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Claim 2: Schramm et al disclose that the speed of the non-driven wheels are inputted in the first step of determining the desired drive slip (see column 5, lines 11-35).

Claim 5: Schramm et al disclose the following: determining desired slip as a function of the driver's command, and increasing the desired slip with an increasing driver's command. Therefore, if the vehicle travels on a curve, the drive slip value will not increase (see column 2, lines 1-14).

Response to Amendment

Applicant's arguments dated on 12/11/2001 have been fully considered but they are not deemed to be persuasive because the cited prior art still read on the limitations as claimed by the applicant. Thus, the previous office action mailed on 10/11/2001 remains unchanged. The following is the reason that makes the application unpatentable.

In response to the applicant's arguments that the rejection under 35 U.S.C. 102(a) is inappropriate, the examiner has carefully reconsidered the application and the rejection based on the Schramm et al reference. In claim 1, the applicant has recited the limitation "evaluating dynamic values associated with the front wheels of the vehicle". Schramm et al teach that the non-driven wheels are front wheels, and the speeds of the non-driven wheels are sent to reference value former 28, which calculates a reference velocity for the drive slip control by averaging the two wheel speed signal values (see column 3, lines 28065). In addition, Schramm et al. provide another details about the case the

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drive slip value of the driven rear wheels increases when the vehicle traveling on a surface with low coefficient of friction (ice, packed snow). Schramm et al assert that the desired slip value is a function of the position of the gas pedal.

According to the level of the gas pedal, the speeds of the non-driven wheels increase or decrease and such speeds compared with the reference velocity for the drive slip control. Thus, Schramm et al read on the limitations as claimed by the applicant. For the reason discussed above, the present application would not be patentable.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (703) 308-6273. The examiner can normally be reached on from 8:00AM to 5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (703) 305-8233. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and none for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

/tc

February 20, 2003


THOMAS G. BLACK
SUPERVISORY PATENT EXAMINER
GROUP 3600